



**NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 300**

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)

S300-ASA-54 [v.11]

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Amends Title [YES]  
Fifth Edition

Date \_\_\_\_\_, 2021

Representative \_\_\_\_\_

1 moves to amend the bill on page 26, lines 20-21  
2 by inserting the following between those lines:

3  
4 **"PART XX-A. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF**  
5 **BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS**  
6 **BODILY INJURY**

7 **SECTION 20A.(a)** G.S. 132-1.4A reads as rewritten:

8 **"§ 132-1.4A. Law enforcement agency recordings.**

9 (a) Definitions. – The following definitions apply in this section:

- 10 (1) Body-worn camera. – An operational video or digital camera or other  
11 electronic device, including a microphone or other mechanism for allowing  
12 audio capture, affixed to the uniform or person of law enforcement agency  
13 personnel and positioned in a way that allows the camera or device to capture  
14 interactions the law enforcement agency personnel has with others.
- 15 (2) Custodial law enforcement agency. – The law enforcement agency that owns  
16 or leases or whose personnel operates the equipment that created the recording  
17 at the time the recording was made.
- 18 (3) Dashboard camera. – A device or system installed or used in a law  
19 enforcement agency vehicle that electronically records images or audio  
20 depicting interaction with others by law enforcement agency personnel. This  
21 term does not include body-worn cameras.
- 22 (4) Disclose or disclosure. – To make a recording available for viewing or  
23 listening to by the person requesting disclosure, at a time and location chosen  
24 by the custodial law enforcement agency. This term does not include the  
25 release of a recording.
- 26 (5) Personal representative. – A parent, court-appointed guardian, spouse, or  
27 ~~attorney~~ attorney licensed in North Carolina, of a person whose image or voice  
28 is in the recording. If a person whose image or voice is in the recording is  
29 deceased, the term also means the personal representative of the estate of the  
30 deceased person; the deceased person's surviving spouse, parent, or adult  
31 child; the deceased person's ~~attorney~~ attorney licensed in North Carolina; or  
32 the parent or guardian of a surviving minor child of the deceased.



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1           (6)     Recording. – A visual, audio, or visual and audio recording captured by a  
2                     body-worn camera, a dashboard camera, or any other video or audio recording  
3                     device operated by or on behalf of a law enforcement agency or law  
4                     enforcement agency personnel when carrying out law enforcement  
5                     responsibilities. This term does not include any video or audio recordings of  
6                     interviews regarding agency internal investigations or interviews or  
7                     interrogations of suspects or witnesses.

8           (7)     Release. – To provide a copy of a recording.

9           (8)     Serious bodily injury. – A bodily injury that creates a substantial risk of death,  
10                   or that causes serious permanent disfigurement, coma, a permanent or  
11                   protracted condition that causes extreme pain, or permanent or protracted loss  
12                   or impairment of the function of any bodily member or organ, or that results  
13                   in prolonged hospitalization.

14       (b)     Public Record and Personnel Record Classification. – Recordings are not public  
15     records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of  
16     Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

17       (b1)    Immediate Disclosure. – When requested by submission of the notarized form  
18                   described in subsection (b2) of this section to the head of a law enforcement agency, any portion  
19                   of a recording in the custody of a law enforcement agency which depicts a death or serious bodily  
20                   injury shall, upon order of the court pursuant to subsection (b3) of this section, be disclosed to a  
21                   personal representative of the deceased, the injured individual, or a personal representative on  
22                   behalf of the injured individual. Any disclosure ordered by the court pursuant to subsection (b3)  
23                   of this section shall be done by the agency in a private setting. A person who receives disclosure  
24                   as ordered by the court pursuant to subsection (b3) of this section shall not record or copy the  
25                   recording. Except as provided in subsection (b3) of this section, the portion of the recording  
26                   relevant to the death or serious bodily injury shall not be edited or redacted.

27       (b2)    Notarized Form. - A person requesting disclosure pursuant to subsection (b1) of this  
28                   section, must submit a signed and notarized form provided by the law enforcement agency. The  
29                   form shall be developed by the Administrative Office of the Courts and shall include notice that,  
30                   if disclosed, the recording may not be recorded or copied, or if unlawfully recorded or copied  
31                   may not be knowingly disseminated, and notice of the criminal penalties provided in subsection  
32                   (b4) of this section.

33       (b3)    Immediate Disclosure Review. – No later than three business days from receipt of the  
34                   notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law  
35                   enforcement agency shall file a petition in the superior court in any county where any portion of  
36                   the recording was made for issuance of a court order regarding disclosure of the recording  
37                   requested pursuant to subsection (b1) of this section, and shall also deliver a copy of the petition  
38                   and a copy of the recording, which shall remain confidential unless the court issues an order of  
39                   disclosure pursuant to this section, to the resident superior court judge for that superior court  
40                   district or their designee. There shall be no fee for filing the petition. The court shall conduct an  
41                   in-camera review of the recording and shall enter an order within seven business days of the  
42                   filing of the petition instructing that the recording be (i) immediately disclosed without editing  
43                   or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date,

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1 with or without editing or redaction; or (iv) not disclosed to the person or persons seeking  
2 disclosure. In determining whether the recording may be disclosed pursuant to this section, the  
3 court shall consider the following factors:

- 4       (1) If the person requesting disclosure of the recording is a person authorized to  
5 receive disclosure pursuant to subsection (c) of this section.  
6       (2) If the recording contains information that is otherwise confidential or exempt  
7 from disclosure or release under State or federal law.  
8       (3) If disclosure would reveal information regarding a person that is of a highly  
9 sensitive and personal nature.  
10       (4) If disclosure may harm the reputation or jeopardize the safety of a person.  
11       (5) If disclosure would create a serious threat to the fair, impartial, and orderly  
12 administration of justice.  
13       (6) If confidentiality is necessary to protect either an active or inactive internal or  
14 criminal investigation or potential internal or criminal investigation.

15 In any proceeding pursuant to this subsection, the following persons shall be notified and  
16 those persons, or their designated representative, shall be given an opportunity to be heard at any  
17 proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement  
18 agency personnel whose image or voice is in the portion of the recording requested to be  
19 disclosed and the head of that person's employing law enforcement agency, (iii) the District  
20 Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the  
21 disclosure. The court may order any conditions or restrictions on the disclosure that the court  
22 deems appropriate.

23 Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as  
24 practicable, and the court shall issue an order pursuant to the provisions of this subsection no  
25 later than seven business days after the filing of the petition. Any subsequent proceedings in such  
26 actions shall be accorded priority by the trial and appellate courts.

27 If disclosure of a recording is denied based on subdivision (6) of this subsection, the court  
28 shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance  
29 of the order, to reconsider whether the recording should be disclosed.

30       (b4) Any person who willfully records, copies, or attempts to record or copy a recording  
31 disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor.  
32 Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant  
33 to subsection (b1) of this section is guilty of a Class I felony.

34       (c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall  
35 be disclosed only as provided by this section. Recordings depicting a death or serious bodily  
36 injury shall only be disclosed as provided in subsections (b1) through (b3) of this section.

37 A person requesting disclosure of a recording must make a written request to the head of the  
38 custodial law enforcement agency that states the date and approximate time of the activity  
39 captured in the recording or otherwise identifies the activity with reasonable particularity  
40 sufficient to identify the recording to which the request refers.

41 The head of the custodial law enforcement agency may only disclose a recording to the  
42 following:

- 43       (1) A person whose image or voice is in the recording.

